

**Sentencing Reform Task Force
MINUTES**

February 22, 2023 / 1:30PM-4:00PM
Virtual Meeting

ATTENDEES

TASK FORCE MEMBERS

Rick Kornfeld, *Task Force Co-chair*, Defense Attorney
Michael Dougherty, *Task Force Co-chair*, District Attorney/ 20th Judicial District (JD)
Taj Ashaheed, Second Chance Center
Maureen Cain, Office of the State Public Defender
Christie Donner, Colorado Criminal Justice Reform Coalition
Valerie Finks, Victim Compensation Program/ DA Office, 1st JD
Julie Gonzales, State Senator/ Senate District 34
Kazi Houston, Rocky Mountain Victim Law Center
Jes Jones, Defense Attorney
David Kaplan, Defense Attorney
Brian Mason, District Attorney/ 17th JD
Andrew Matson, Colorado CURE
Jeffrey Nowacki, Colorado State University
Tom Raynes, Colorado District Attorneys' Council
Michael Rourke, District Attorney/ 19th JD
Dan Rubinstein, District Attorney/ 21st JD
Adrian Vasquez, Police Chief/ Colorado Springs Police Department

STAFF

Richard Stroker, CCJJ Consultant
Laurence Lucero, CCJJ Staff, Division of Criminal Justice
Jack Reed, Research Director, Division of Criminal Justice
Kevin Ford, CCJJ Staff, Division of Criminal Justice
Courtney Leapley, CCJJ Staff, Division of Criminal Justice
Stephané Waisanen, CCJJ Staff, Division of Criminal Justice

ABSENT

Bob Gardner, State Senator/ Senate District 12
Serena Gonzales-Gutierrez, State Representative/ House District 4
Justin "JR" Hall, Colorado State Board of Parole
Dave Hayes, Police Chief/ Estes Park Police Department
Sarah Keck, Court Services/ Judicial Branch
Greg Mauro, Denver Division of Community Corrections
Heather McClure, Adams County Division of Community Safety & Well-Being
Glenn Tapia, Director, Div. of Probation Services/ Judicial Branch
Andre Stancil, Executive Director/ Colorado Department of Corrections

Issue/Topic	Discussion
<p>Welcome & Review of Agenda <i>Michael Dougherty & Rick Kornfeld</i> Task Force Co-chairs</p>	<p>Rick Kornfeld, Task Force Co-chair, welcomed attendees and reviewed the agenda.</p> <p>Michael Dougherty, Task Force Co-chair, reminded the group the goal of this extra SRTF meeting is to discuss <i>Recommendation FY23-SR#04</i> and possibly separate the recommendations into four sections and conduct a vote. The goal is to present the preliminary recommendation to the Commission on February 24 with a vote on March 10.</p>

Issue/Topic	Discussion
<p>Presentation: Recommendation FY23-SR #04 - <i>Michael Dougherty, Leader</i> Sentence Structure Working Group</p>	<p>A background presentation regarding the Sentencing Reform Task Force creation, the task to address sentencing topics delineated in the 2020 Biennial letter from Governor Polis and a review of Recommendation FY23-SR #04. Change Felony Crime Classifications and Sentence Enhancement Provisions of the Criminal Code [Statutory] were offered at the SRTF meeting on February 8. This recommendation comprises four elements: Extreme Indifference Homicide and Vehicular Homicide, Mandatory Consecutive Sentencing, Habitual Sentences, and Extraordinary Risk.</p> <p>Rick Kornfeld, Task Force Co-chair, requested a motion to vote on the recommendation.</p> <p>Michael Rourke moved to separate <i>Rec. FY23-SR #04</i> into four separate recommendations and the motion was seconded by Valerie Finks. Michael Rourke believed the issues presented in these recommendations are significant and warrant further discussion and separate votes.</p> <p>Michael Rourke began the discussion by recognizing the work put into these proposals by the Sentence Structure Working Group and expressed that his motion should not be perceived as a criticism of the work. He acknowledged the importance of keeping Extreme Indifference and Vehicular Homicide together, as stated by the working group members but, otherwise would like each of the other topics to be individually considered for a vote.</p> <p>Adrian Vasquez concurred with Michael Rourke’s motion and the reasoning that each proposal should be considered separately.</p> <p>Maureen Cain and David Kaplan touted the merits of the single proposal. Christie Donner suggested that the recommendation be considered as a unitary package and then breaking it up, if it does not pass.</p> <p>Tom Raynes mentioned that his preference is typically to advance a single proposal. However, he understands that packaging the four components in a single proposal could result in the entire recommendation not being approved, due to concerns members might have with specific sections.</p>

<p>Issue/Topic Presentation: Recommendation FY23-SR #04 - <i>Michael Dougherty, Leader</i> <i>Sentence Structure Working Group</i> (cont.)</p>	<p>Dan Rubenstein concurred with Tom Raynes, concurring with the preference to combine the Extreme Indifference and Vehicular Homicide elements.</p> <p>Brian Mason supported separating the recommendation into four proposals and cited serious concerns about the recommendations for Extreme Indifference and Vehicular Homicide. He indicated his intent to introduce amendments.</p> <p>With no further discussion, a simple majority vote was conducted to separate the recommendation into four sections, yielding the following result: 7 - Support 10 - Do not support</p> <p>The motion to separate <i>FY23-SR#04</i> into four recommendations was <u>NOT APPROVED.</u></p> <p>Brian Mason, in turn, moved three amendments, <u>each of which failed by the same vote outcome:</u> 5 - Support 11 - Do not support 1 - Abstain</p> <p><i>Amendment 1:</i> Alter sentencing ranges thusly, For Vehicular Homicide (VH) DUI - 10-32 non-mandatory For VH Reckless - 8-24 years non-mandatory Note: Dan Rubenstein indicated that this motion also required the following... - Reclassify VH- DUI as extraordinary risk F3, with midpoint presumptive up to twice the max, but probation eligible, and - Reclassify VH-Reckless from F4 to F3, but not extraordinary risk, with midpoint presumptive up to twice the max, but probation eligible.</p> <p><i>Amendment 2:</i> Alter sentencing ranges thusly, For VH DUI: Presumptive 8-24 non-mandatory Aggravated 10-32 non-mandatory For VH Reckless: Presumptive 4-12 non-mandatory Aggravated 2-24 non-mandatory Note: Dan Rubenstein indicated that this motion also required the following... - VH-DUI midpoint presumptive of F3 non-extraordinary risk up to twice the max, but with aggravating factors, it becomes an extraordinary risk F3 with midpoint presumptive up to twice the max., and - VH- Reckless a F3 with the current F3 ranges. Probation eligible with both and both non-mandatory.</p> <p><i>Amendment 3:</i> Alter sentencing ranges thusly, For Extreme Indifference Murder - 48 to Life Note: Dan Rubenstein indicated the following... - If convicted under the Extreme Indifference Murder subsection, the sentencing range is 48 to life as a Class 1 Felony.</p> <p>With no further amendments, Rick solicited a motion to approve <i>FY23-SR#04</i> as a whole. Dan Rubenstein moved the approval of <i>FY23-SR #04</i>, which was seconded by Jes Jones. With no further discussion, a majority vote of Task Force members was conducted that yielded the following result: A. I support: 11 B. I do not support: 6</p> <p>The motion to approve <i>FY23-SR#04</i> as a whole was <u>APPROVED.</u></p>
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Issue/Topic	Conclusion
Public Comment <i>Rick Kornfeld</i> Task Force Co-chair	Rick asked if there was any public comment, and with none, he moved to the conclusion of the meeting.

Issue/Topic	Conclusion
Next Steps & Adjourn <i>Rick Kornfeld</i> Task Force Co-chair	Rick thanked participants for the robust conversation. <i>Recommendation FY23-SR #04</i> will be presented to the Commission next Friday, February 24. Rick and Michael invited Task Force members to attend. He asked if there were any additional questions, and with none, adjourned the meeting.

Next Meeting

Wednesday, March 7, 2023 / 1:30-4:00 pm

Details of the next meeting will be forwarded to the group and posted on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings & ccjj.colorado.gov/ccjj-calendar).

[NOTE: The Sentencing Reform Task Force meeting scheduled for March 7 was subsequently canceled.]